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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,578	12/30/2003	Giovanni Benini	2001P06859WOUS	8079

7590 06/13/2005

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPT.
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

EXAMINER

TRAN, QUOC DUC

ART UNIT	PAPER NUMBER
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2643

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/748,578

Applicant(s)

BENINI ET AL.

Examiner

Quoc D. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Claim Objections

1. Claim 15 is objected to because of the following informalities: claim is not consistent with its parent claim. Parent claim 1 claimed a communication system whereas claim 15 calls for a method. Appropriate correction is required.
2. Claims 4 and 12 are objected to because of the following informalities: duplicated. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-3, 6-8, 11, 14-16 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Astle et al (6,396,816).

Consider claim 1, Astle et al teach a communication system for establishing a broadband connection between a plurality of subscribers by switches in a communication network (col. 3 lines 29-36), comprising a calling subscriber that sends a plurality of bandwidth request, the plurality of bandwidth request having a broadband request (col. 3 line 66 – col. 4 line 32); and a switch operatively connected to the calling subscriber that selects a minimum bandwidth, the minimum bandwidth being the smallest bandwidth within the plurality of bandwidth requests,

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wherein a minimum connection is established using the minimum bandwidth (col. 5 lines 1-18; col. 7 lines 1-26).

Consider claim 2, Astle et al teach wherein a data stream determined by the calling subscriber is transmitted via the minimum connection (col. 8 lines 32-50).

Consider claim 3, Astle et al teach wherein one of the subscribers first initiates the establishment of a minimum connection and thereafter the establishment of the broadband connection (col. 9 lines 5-10).

Consider claim 6, Astle et al teach a method for establishing a broadband connection between a plurality of subscribers in a communication networks (col. 3 lines 29-36) comprising; receiving a plurality of bandwidth request from a calling subscriber operatively connected to a switch, the plurality of bandwidth request having a broadband request (col. 3 line 66 – col. 4 line 32); determining a minimum bandwidth by the switch, the minimum bandwidth being the smallest value within the bandwidth request; establishing a minimum connection between the subscriber using the minimum bandwidth (col. 5 lines 1-18; col. 7 lines 1-26); and establishing a connection between the subscribers using a plurality of bandwidth requests and excluding the minimum bandwidth after establishing the minimum connection (col. 9 lines 5-23).

Consider claim 7, Astle et al teach wherein a data stream determined by the calling subscriber is transmitted via the minimum connection (col. 8 lines 32-50).

Consider claim 8, Astle et al teach wherein the calling subscriber initiates the establishment of a second broadband connection (col. 9 lines 5-10).

Consider claim 11, Astle et al teach wherein one of the subscribers first initiates the establishment of the minimum connection and thereafter the establishment of a broadband connection (col. 9 lines 5-10).

Consider claim 14, Astle et al teach wherein a calling subscriber first initiates the establishment of a minimum connection and thereafter the establishment of the broadband connection (col. 9 lines 5-10).

Consider claim 15, Astle et al teach wherein upon receiving a minimum connection answer message the switch is adapted to establish a connection using the plurality of bandwidth requests and excluding the minimum bandwidth request, the connection includes the broadband connection (col. 9 lines 5-23).

Consider claim 16, Astle et al teach a method for establishing a broadband connection between a first subscriber and a second subscriber in a communication network (col. 3 lines 29-36) comprising: establishing a first connection between the subscribers (col. 5 lines 1-18); requesting a broadband connection by the first subscriber; establishing the broadband connection between the subscribers (col. 5 lines 39-55); and providing a high priority broadband setup (col. 6 lines 25-53).

Consider claim 18, Astle et al teach wherein the high priority broadband setup takes place prior to a non-high priority broadband setup (col. 7 lines 1-5).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Astle et al (6,396,816) in view of Saari et al (6,338,046) and further view of Smyth et al (6,347,224).

Consider claim 9, Saari et al teach a method for broadband connection between a plurality of subscribers in a communication network (col. 3 lines 29-36), comprising: indicating a high priority broadband connection by the subscriber initiating the connection (col. 6 lines 25-53); establishing the high priority broadband connection prior to establishing a non-high priority broadband connection (col. 7 lines 1-5).

Astle et al did not suggest of initiating charges for broadband connection between the plurality of subscribers. However, Saari et al suggested such (col. 2 lines 1-35). Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to incorporate the teaching of Saari et al into view of Astle et al in order to bill the subscribers for service rendered.

Astle and Saari et al did not clearly suggest charging during the *connection setup phase*. However, Smyth et al suggested various charging settings that include charging during call set-up phase (col. 2 lines 48-51). Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to incorporate the teaching of Smyth et al into view of Astle and Saari et al in order to enable service providers implementing various ways of charging for connections.

Consider claim 10, as discussed above, Astle et al teach suggest wherein the establishment of the broadband connection has a higher priority in the communication network

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than the establishment of broadband connections which are not charged (i.e., lower priority) for during the broadband connection setup phase (col. 7 lines 1-5).

7. Claims 4-5, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Astle et al (6,396,816) in view of Smyth et al (6,347,224).

Consider claims 4, 12 and 13, Astle et al did not suggest wherein the calling subscriber is charged as early as the broadband connection setup phase. However, Smyth et al suggested various charging settings that include charging during call set-up phase (col. 2 lines 48-51). Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to incorporate the teaching of Smyth et al into view of Astle et al in order to enable service providers implementing various ways of charging for connections.

Consider claim 5, as suggested above, Astle et al teach wherein the establishment of the broadband connection has a higher priority in the communication network than the establishment of broadband connections which are not charged (i.e., lower priority) for during the broadband connection setup phase (col. 7 lines 1-5).

8. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Astle et al (6,396,816) in view of Saari et al (6,338,046).

Consider claim 17, Astle et al did not suggest wherein the high priority broadband setup initiates a charge for the broadband connection at a setup request. However, Saari et al suggested such (col. 2 lines 1-35). Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to incorporate the teaching of Saari et al into view of Astle et al in order to bill the subscribers for service rendered.

Response to Arguments

9. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

12. Any response to this action should be mailed to:

Mail Stop ____ (explanation, e.g., Amendment or After-final, etc.)

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Facsimile responses should be faxed to:

(703) 872-9306

Hand-delivered responses should be brought to:

Customer Service Window

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Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Quoc Tran** whose telephone number is **(571) 272-7511**. The examiner can normally be reached on M, T, TH and SATURDAY from 8:00 to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Curtis Kuntz**, can be reached on **(571) 272-7499**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Technology Center 2600** whose telephone number is **(571) 272-2600**.

QUOCTRAN
PRIMARY EXAMINER


AU 2643

June 7, 2005